

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION
4

5 Civil Action No. 1:17-cv-02989-AT
6

7 _____
8 DONNA CURLING, et al.,

9 Plaintiffs,

10 vs.

11 BRAD RAFFENSPERGER, et al.,

12 Defendants.
13 _____

14 VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF

15 BENJAMIN R. COTTON

16 DATE: August 25, 2022

17 TIME: 9:11 a.m. to 4:02 p.m. CDT

18 LOCATION: Witness location
19

20 REPORTED BY: Felicia A. Newland, CSR

21 Veritext Legal Solutions

1250 Eye Street, N.W., Suite 350

22 Washington, D.C. 20005

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EXAMINATION BY:	PAGE
Counsel for Curling Plaintiffs	11
Counsel for Coalition Plaintiffs	166
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3
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1 MR. PARKER: And this is Andrew
2 Parker here representing Ben Cotton. I am in the
3 room with Mr. Cotton. I am not on camera, but I
4 will be speaking during the deposition.

5 VIDEOGRAPHER: Is that everybody --

6 MR. PARKER: If you need me to be on
7 camera, I am certainly happy to do that, but prior
8 to starting, there was a request made that only
9 Mr. Cotton be in the camera view.

10 VIDEOGRAPHER: Has everybody
11 announced their appearances?

12 Okay. Will the court reporter
13 please swear in the witness?

14 (Witness duly sworn in.)

15 VIDEOGRAPHER: You may proceed.

16 * * * * *

17 Whereupon,

18 BENJAMIN R. COTTON
19 was called as a witness and, having been first duly
20 sworn, was examined and testified as follows:
21
22

1 today with respect to some of the representations
2 that you just made, but I believe we can get
3 started.

4 MR. PARKER: Okay.

5 BY MS. KAISER:

6 Q Good morning, Mr. Cotton.

7 A Good morning.

8 Q I'm Mary Kaiser. Nice to meet you.

9 Can you please state your name and

10 address for the record?

11 A My name is Benjamin R. Cotton,

12 C-O-T-T-O-N. And my address is 27427 Montana

13 Highway 83, Bigfork, Montana 59911.

14 Q I'm going to be asking you a series
15 of questions today. Before we do that, do you
16 understand that you are under oath?

17 A I do.

18 Q Is there any reason why you would be
19 unable to give full and complete testimony today?

20 A No.

21 Q Have you been deposed before?

22 A I have.

1 forensics organization.

2 Q You said you're just a member of that
3 organization?

4 A I am.

5 Q Do you have a leadership role?

6 A I do not.

7 Q Do you know about how many members
8 the organization has?

9 A I -- I really don't have any idea.
10 It's -- it's global, so there would be a lot.

11 Q Okay. Are you involved in any
12 election organizations or offices?

13 A I am not.

14 Q Prior to the November 2020 general
15 election, did you have any experience analyzing
16 election systems?

17 A No.

18 Q Prior to the November 2020 general
19 election, did you have any experience analyzing
20 elections data?

21 A No.

22 Q Have you done any work on behalf of a

1 we've been going for about an hour, and I'm about
2 to -- to change topics. Do you want to take a
3 short break, just five minutes?

4 THE WITNESS: Sure.

5 MS. KAISER: Okay. Thank you.

6 We're off the record.

7 VIDEOGRAPHER: The time is
8 approximately 10:21 a.m. We are going off the
9 video record.

10 (Recess from 10:21 a.m. to 10:37 a.m.)

11 VIDEOGRAPHER: The time is
12 approximately 10:37 a.m. We are back on the video
13 record. Go ahead.

14 BY MS. KAISER:

15 Q Mr. Cotton, do you know who Garland
16 Favorito is?

17 A I do.

18 Q Who's Mr. Favorito?

19 A He is the head of the VoterGA.org.

20 Q Have you had any communications with
21 Mr. Favorito?

22 A Yes.

1 Q Have you had any communications with
2 Mr. Favorito related to data or software from
3 Georgia?

4 A As it related to and through his
5 attorney, yes.

6 Q And for what purpose?

7 A For the purpose of the engagement
8 which we previously spoke, which was to analyze the
9 artifacts that were produced in response to FOIA
10 requests and subpoenas to VoterGA.org in relation
11 to one of their -- well, two of their cases that
12 they had, that they were prosecuting.

13 Q Mr. Cotton, you -- you mentioned
14 before, Mr. Cotton, that prior to June 2021, you
15 had not analyzed any data from Georgia. Is that
16 correct?

17 A That's correct.

18 Q Have you analyzed any data or
19 software related to the Dominion Voting System
20 that's used in Georgia, the same Dominion equipment
21 that's used in Georgia?

22 MR. PARKER: You can answer limited

1 A I did not.

2 Q Have you ever accessed any voting
3 equipment or voting data from Coffee County,
4 Georgia?

5 MR. PARKER: Don't -- don't answer
6 that if it gets into anything regarding your
7 engagement as a consulting expert.

8 THE WITNESS: Yes, I have.

9 BY MS. KAISER:

10 Q Did you access any voting equipment
11 or voting data from Coffee County on January 7th,
12 2021?

13 A No.

14 Q When is the first time that you ever
15 accessed voting -- voting equipment or data from
16 Coffee County, Georgia?

17 A It would have been the middle to end
18 of June of 2021.

19 Q Okay. I'll come back to that.
20 Do you have any understanding of who
21 collected that data from Coffee County, Georgia?

22 A I have no direct personal knowledge

1 of that.

2 Q Do you know who Scott Hall is?

3 A I do not.

4 Q Do you know who Eric Chaney is?

5 A I'm not familiar with that name

6 either.

7 Q Do you know who Cathy Latham is?

8 A No.

9 Q Do you know who Misty Hampton is?

10 A Yes.

11 Q Who is Misty Hampton?

12 A Misty Hampton was the election

13 official in Coffee County, Georgia, and she's also

14 Stefanie Lambert's client.

15 Q Have you ever had any communications
16 with Ms. Hampton?

17 A Yes.

18 Q Regarding what?

19 A I met her prior to June of 2021, and
20 it was a social setting.

21 Q Where was that social event?

22 A That was in Michigan.

1 A No, I don't recall him.

2 Q Okay. Do you see next to his name it
3 says "SullivanStrickler, LLC"?

4 A I see that, yeah.

5 Q Do you have an understanding that
6 Mr. Maggio worked at SullivanStrickler?

7 A Based on this e-mail and your
8 representations, yes.

9 Q Okay. And that the e-mail is to
10 Sidney Powell. I believe you said you are -- you
11 are aware of who Ms. Powell is just from press
12 reports. Is that correct?

13 A That's correct.

14 Q Okay. And copied on the e-mail is
15 Tricia. Do you know who Tricia is?

16 A I don't.

17 Q How about Jim Penrose?

18 A I know who Jim Penrose is.

19 Q Who is Mr. Penrose?

20 A He is a forensics expert that was
21 also engaged by Stefanie Lambert on some of her
22 engagements, I believe, outside of Georgia. I

1 didn't know that he was working in Georgia.

2 Q Have you ever had any communications
3 with Mr. Penrose?

4 A Only in the capacity of collaborating
5 experts supporting Ms. Lambert.

6 Q Have you collaborated with
7 Mr. Penrose at all with respect to Georgia voting
8 data or voting -- the Georgia voting software?

9 A Tangentially.

10 Q Can you elaborate on that?

11 MR. PARKER: If it relates to your
12 engagement as a consulting expert in Georgia, you
13 cannot testify to it. If it does not, you can.

14 THE WITNESS: He was involved in the
15 initial spin-up of Coffee County, Georgia.

16 BY MS. KAISER:

17 Q What do you mean when you say
18 "spin-up of Coffee County, Georgia"?

19 A So when -- when Stefanie directed me
20 to support Coffee County, Georgia, I had a
21 conversation with him that -- concerning access to
22 the materials.

1 Q Did he facilitate your access to the
2 materials?

3 MR. PARKER: Don't answer that. It's
4 related to work product. Actually, you can -- you
5 can answer it to the extent that you don't get into
6 materials that you actually received and reviewed.

7 THE WITNESS: Yes, he did.

8 BY MS. KAISER:

9 Q How did he facilitate that access?
10 And, again, I'm not asking about the
11 contents of the materials. I'm just asking about
12 the access.

13 A He provided some log-in credentials
14 for me to download the materials.

15 Q To download them from where?

16 A From the SullivanStrickler website, a
17 secured portal.

18 Q A secured portal?

19 A Yes.

20 Q And approximately when was that,
21 Mr. Cotton?

22 A That was approximately the 11 -- or

1 the middle of June, 11th, 12th, somewhere in there.

2 Q June 2021, correct?

3 A Correct.

4 Q So Mr. Penrose provided you with the
5 log-in credentials that you required to download
6 information from the SullivanStrickler secured
7 portal. Is that correct?

8 A That is correct.

9 Q Is that the extent of your
10 communications with Mr. Penrose?

11 A Yes.

12 Q Also copied on this e-mail is Brendan
13 Sullivan. Do you see that?

14 A I do.

15 Q Do you know Mr. Sullivan?

16 A I do not.

17 Q And the last person copied on this
18 e-mail is Doug Logan. Do you see that name?

19 A I do.

20 Q Do you know Mr. Logan?

21 A I know a Doug Logan. I don't know if
22 this is the same Doug Logan, but I certainly know a

1 Q Do you recognize that as the same
2 number that was referenced in Maggio's --
3 Mr. Maggio's e-mail on Exhibit 5?

4 A I do.

5 Q Mr. Cotton, did you receive data
6 copied from Coffee County, Georgia on January 7,
7 2021?

8 A I did not.

9 Q At any time?

10 MR. PARKER: Objection.

11 You can answer if it's outside of
12 the consulting expert role that you were retained
13 for in Georgia; and if it is not, you cannot
14 answer.

15 THE WITNESS: So as I previously
16 testified, I received access to a download site on
17 or about the middle of June 2021.

18 BY MS. KAISER:

19 Q Did you ever receive a hard drive
20 or -- or any other materials containing data from
21 Coffee County, Georgia?

22 MR. PARKER: You cannot answer that

1 if it was received as a part of your consulting
2 expert role in Georgia.

3 THE WITNESS: So as I previously
4 testified, I received access to the
5 SullivanStrickler download site in the middle of
6 June of 2021.

7 BY MS. KAISER:

8 Q If you look at Exhibit 7 again. Did
9 you receive access to the files listed in
10 Exhibit 7?

11 MR. PARKER: If you -- if you
12 received that -- if you received any access related
13 to your consulting expert role, you cannot answer
14 it, but if you received it outside of that role,
15 you can.

16 THE WITNESS: I did not receive any
17 access outside of my role as a consulting expert.

18 BY MS. KAISER:

19 Q So you're not willing to testify as
20 to the contents of the data that you received
21 access to?

22 MR. PARKER: That's correct. I'm

1 A No.

2 Q Have you ever physically or remotely
3 accessed any elections office in Georgia?

4 A No.

5 Q You have provided sworn testimony
6 that you forensically analyzed the voting system
7 for Coffee County, Georgia. Is that correct?

8 A That is correct.

9 Q Will you please walk me through how
10 you came to analyze that voting system?

11 MR. PARKER: You can testify about
12 what you testified to in Arizona, but if it relates
13 to your work as a consulting expert in Georgia, you
14 cannot testify beyond that.

15 THE WITNESS: I had the occasion to
16 be able to examine the artifacts necessary to make
17 conclusions about the cybersecurity posture of the
18 EMS server in Coffee County, Georgia.

19 BY MS. KAISER:

20 Q Did you offer an expert opinion on
21 that matter?

22 A I have a -- a declaration in another

1 A Yes.

2 Q So as you sit here today, Mr. Cotton,
3 you have no knowledge of how the data that you
4 received was obtained from voting equipment in
5 Coffee County. Is that correct?

6 A That is correct.

7 Q I want to go back to what was
8 previously marked as Exhibit 3. This is your
9 March 2021 engagement letter with Ms. Lambert.

10 We walked through this -- the
11 description of services section agreement prior --
12 previously. Do you remember that?

13 A I do.

14 Q And your engagement letter states
15 that you would provide forensic imaging of hard
16 drives, correct?

17 A If required, yes.

18 Q Did you, yourself, undertake any
19 forensic imaging of hard drives in Coffee County,
20 Georgia?

21 A I did not --

22 MR. PARKER: Do not answer that --

1 attorney," was that Stefanie Lambert?

2 A Yes.

3 Q What happened after you downloaded
4 the data from Coffee County, Georgia? What did you
5 do with it?

6 MR. PARKER: Objection. Don't go any
7 further than what you testified to in Arizona, to
8 the extent that it relates to your consulting work
9 as an expert.

10 THE WITNESS: I provided -- or I
11 performed an analysis of those provided artifacts.
12 And a portion of those conclusions are referenced
13 in the Arizona declaration.

14 BY MS. KAISER:

15 Q Did you undertake that analysis right
16 away?

17 A It's my recollection that it was
18 fairly shortly after the -- I downloaded the
19 artifacts.

20 Q Did you save that data anywhere?

21 A Which data are you speaking about?

22 Q The Coffee County data that you

1 accessed from the SullivanStrickler secured site.

2 A Yes.

3 Q Where did you save it?

4 A I saved it on my forensics

5 workstation.

6 Q That's the computer in -- in your lab

7 in Montana. Is that correct?

8 A That is correct.

9 Q But you saved a copy of it there?

10 A Yes.

11 Q Did you replicate the data in any

12 way?

13 A I did not.

14 Q Did you share the data with anybody?

15 A No.

16 Q Did you perform this analysis on your

17 own?

18 MR. PARKER: Objection. It goes into
19 his work as a consulting expert. I would instruct
20 him not answer.

21 BY MS. KAISER:

22 Q Have you worked with anybody else

1 it's work-product doctrine, it's governed by all
2 of the rules that have been cited in the log, as
3 well as the nondisclosure agreement.

4 BY MS. KAISER:

5 Q Are you willing to answer that
6 question, Mr. Cotton?

7 A I will follow the direction of the
8 attorney.

9 Q Do you still have the Dominion data
10 files from Coffee County?

11 A Yes.

12 Q What steps, if any, have you taken to
13 secure those files?

14 A They're on isolated systems, password
15 protected on encrypted hard drives.

16 Q Does anybody have access to those
17 passwords besides you?

18 A No.

19 Q To your knowledge, who has received
20 or had access to the Dominion data from Coffee
21 County, Georgia?

22 MR. PARKER: To the extent that it

1 (Recess from 11:48 a.m. to 12:01 p.m.)

2 VIDEOGRAPHER: The time is
3 approximately 12:01 p.m. We are back on the video
4 record. Go ahead.

5 BY MS. KAISER:

6 Q Mr. Cotton, we were just speaking
7 about Misty Hampton and your belief that she had
8 authority to authorize your access to the Coffee
9 County voting data.

10 Are you aware that Ms. Hampton was
11 fired from her job in February of 2021?

12 A I am not.

13 Q You met Ms. Hampton in approximately
14 April of 2021. Is that right?

15 A That's correct.

16 Q And that by that time she had
17 retained Ms. Lambert as her attorney. Is that
18 right?

19 A That's my understanding, yes.

20 Q Did you have an understanding of why
21 she needed an attorney?

22 A I -- my understanding was, is that

1 she was being harassed by the -- by the County.
2 And there was possible action -- I was unclear as
3 to what action that it would have been that was
4 going to be taken against her.

5 Q By the County?

6 A By the County.

7 Q And so your understanding is
8 Ms. Lambert was hired to represent her in the
9 defense of an action by Coffee County?

10 A Yes.

11 Q Did she tell you anything about that
12 when you met with her in April of 2021?

13 A We did not discuss what was going on
14 in Coffee County when I met her in April.

15 Q Did you discuss her -- why she had
16 retained Ms. Lambert?

17 A I did not. And, you know, it's not
18 my place.

19 MS. KAISER: I'm going to mark the
20 next exhibit, which I think is going to be
21 Exhibit 12.

22

CERTIFICATE OF NOTARY PUBLIC

I, FELICIA A. NEWLAND, CSR, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in stenotype and thereafter reduced to typewriting under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



FELICIA A. NEWLAND, CSR
Notary Public

My commission expires:

September 15, 2024